## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KAREN McINTYRE and JULIE BURKE,

**CIVIL ACTION** 

Plaintiffs,

v.

NO. 18-5066

COUNTY OF DELAWARE, JOE BRENNAN, and TIM BOYCE,

Defendants.

## ORDER

AND NOW, this 16th day of August, 2019, upon consideration of Motion of Defendants Delaware County, Joe Brennan and Tim Boyce to Dismiss Plaintiffs' Second Amended Complaint (Document No. 10, filed March 1, 2019), and Plaintiffs' Brief in Opposition to Defendants' Motion to Dismiss Plaintiffs' Second Amended Complaint (Document No. 11, filed March 15, 2019), for the reasons stated in the accompanying Memorandum dated August 16, 2019, IT IS ORDERED that Motion of Defendants Delaware County, Joe Brennan and Tim Boyce to Dismiss Plaintiffs' Second Amended Complaint is GRANTED IN PART AND DENIED IN PART, as follows:

- That part of defendants' Motion seeking dismissal of plaintiff McIntyre's claims in Counts I and II as time-barred is **DENIED**.
- 2. That part of defendants' Motion seeking dismissal of plaintiffs' Title VII claims in Counts I and II related to conduct occurring in and before January 2017 for failure to exhaust remedies is **DENIED**.
- 3. That part of defendants' Motion seeking dismissal of plaintiffs' *Monell* claim in Count III is **DENIED**.

- 4. That part of defendants' Motion seeking dismissal of plaintiffs' § 1983 claims in Count III against defendants Brennan and Boyce is **DENIED**.
- 5. That part of defendants' Motion seeking dismissal of plaintiffs' Due Process claim in Count III is **GRANTED**, and those claims are **DISMISSED WITH PREJUDICE**.
- 6. That part of defendants' Motion seeking dismissal of plaintiffs' First Amendment Retaliation claim in Count III is **DENIED**.
- 7. That part of defendants' Motion seeking dismissal of plaintiffs' whistleblower claim in Count VI is **DENIED**.
- 8. That part of defendants' Motion seeking dismissal of plaintiffs' post-employment retaliation claim in Count II is **GRANTED IN PART AND DENIED IN PART**, as follows:
  - a. That part of defendants' Motion relating to post-employment retaliation claims in Count II based on obstruction of plaintiffs' transition away from county employment, extension of COBRA rights, and retrieval of personal effects, is GRANTED and those claims are DISMISSED WITH PREJUDICE.
  - b. That part of defendants' Motion relating to post-employment retaliation claims in Count II based on defendants' opposition to plaintiffs' applications for unemployment benefits is **DENIED**.

9. That part of defendants' Motion asking the Court to strike plaintiffs' demand for punitive damages in Counts I through IV against Delaware County is **GRANTED** and those demands are **STRICKEN** from the Second Amended Complaint.

**BY THE COURT:** 

/s/ Hon. Jan E. DuBois

DuBOIS, JAN E., J.